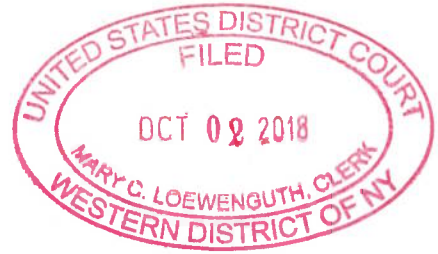


UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

DECISION AND ORDER

v.

1:18-CR-00030 EAW JJM

IVAN HERNANDEZ-HERNANDEZ,

Defendant.

The above-referenced defendant is charged in a one-count Indictment returned on January 30, 2018, with unlawful reentry into the United States after having been deported, in violation of 8 U.S.C. § 1326(a). (Dkt. 5). This Court referred all pretrial matters in the case to United States Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1)(A)-(B). (Dkt. 7).

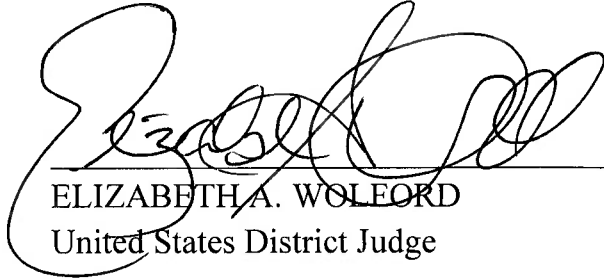
On September 13, 2018, Magistrate Judge McCarthy issued a thorough Report and Recommendation addressing the pretrial motions filed on behalf of the Government and Defendant. (Dkt. 64). Specifically, Judge McCarthy recommended that this Court grant the Government's motion (Dkt. 62) to dismiss the Indictment without prejudice, and deny Defendant's motion (Dkt. 63) to dismiss the Indictment with prejudice, without prejudice to Defendant's right to seek that relief if he is re-prosecuted for the same conduct alleged in this Indictment (Dkt. 64 at 2-6). Pursuant to Fed. R. Crim. P. 59(b)(2) and 28 U.S.C.

§ 636(b)(1)(C), the Government and Defendant had 14 days after being served a copy of the Report and Recommendation to file objections. No objections were filed.

The Court is not required to review *de novo* those portions of a report and recommendation to which objections were not filed. Fed. R. Crim. P. 59(b)(2) (“Failure to object in accordance with this rule waives a party’s right to review.”); see *Molefe v. KLM Royal Dutch Airlines*, 602 F. Supp. 2d 485, 487 (S.D.N.Y. 2009) (to trigger the *de novo* review standard, objections to a report “must be specific and clearly aimed at particular findings in the magistrate judge’s proposal”).

Notwithstanding the lack of objections, the Court has conducted a careful review of the Report and Recommendation as well as all related filings, and finds no reason to reject or modify the Report and Recommendation of Magistrate Judge McCarthy. Therefore, the Court accepts and adopts the Report and Recommendation. (Dkt. 64). For the reasons set forth in the Report and Recommendation, this Court grants the Government’s motion (Dkt. 62) to dismiss the Indictment without prejudice, and denies Defendant’s motion (Dkt. 63) to dismiss the Indictment with prejudice, without prejudice to Defendant’s right to seek that relief if he is re-prosecuted for the same conduct alleged in this Indictment.

SO ORDERED.



ELIZABETH A. WOLEFORD
United States District Judge

Dated: October 1, 2018
 Rochester, New York